

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
STIPULATED ELECTION AGREEMENT

**A&E Properties I MGMT LLC**

**Case 29-RC-305752**

The parties **AGREE AS FOLLOWS:**

**1. PROCEDURAL MATTERS.** The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

**2. COMMERCE.** The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, a domestic corporation, with its principal office and place of business located at 1065 6th Avenue, 31st Floor, New York, New York, has been engaged in the business of property management to residential apartment buildings including 34-33 90<sup>th</sup> Street, Jackson Heights, NY; 34-18 91st Street, Jackson Heights, NY; 34-19 90th Street, Jackson Heights, NY; 34-32 91st Street, Jackson Heights, NY; 34-46 91st Street, Jackson Heights, NY; and 34-47 90th Street, Jackson Heights, NY. During the past year, which period is representative of its annual operations generally, the Employer, in the course and conduct of its business operations, derived gross annual revenues in excess of \$500,000, and purchased and received goods and products valued in excess of \$5,000 directly from enterprises within the State of New York which enterprises in turn, purchased and received such goods and materials directly from points located outside the State of New York. The Employer is engaged in commerce within the meaning of the Act.

**3. LABOR ORGANIZATION.** The Petitioner, Local 2, Building Service Employees & Factory Workers, United Service Workers Union, International Union of Journeymen Allied Trades, is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

**4. ELECTION.** The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 29, on **November 22, 2022** by 5:30 pm. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 29 office by close of business on **December 13, 2022**. However, ballots received in signed envelopes prior to the date of the count will be included in the count.

Initials: \_\_\_\_\_

(b) (6), (b) (7)(C)

Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be void.

To help avoid the untimely return of a ballot, any person who has not received a ballot by **November 30, 2022**, or otherwise requires a duplicate mail ballot kit should contact Supervisor Terri Craig at (718) 765-6174 and/or [Terri.Craig@nrlrb.gov](mailto:Terri.Craig@nrlrb.gov) by no later than close of business on **November 30, 2022**, in order to arrange for another mail ballot kit to be sent to that employee.

If the election and/or count is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

**5. UNIT AND ELIGIBLE VOTERS.** The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: all full-time and regular part-time building maintenance employees employed by the Employer at its facilities located at 34-33 90<sup>th</sup> Street, Jackson Heights, NY; 34-18 91st Street, Jackson Heights, NY; 34-19 90th Street, Jackson Heights, NY; 34-32 91st Street, Jackson Heights, NY; 34-46 91st Street, Jackson Heights, NY; and 34-47 90th Street, Jackson Heights, NY.

Excluded: all other employees including office clerical employees, professional employees, guards, and supervisors as defined in the Act.

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending November 4, 2022**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the above unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote by mail as described above in paragraph 4.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, and, in a mail ballot election, before they mail in their ballots to the Board's designated office, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

**6. VOTER LIST.** Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact

Initials: \_\_\_\_\_

(b) (6), (b) (7)(C)

information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

**7. THE BALLOT.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by Local 2, Building Service Employees & Factory Workers, United Service Workers Union, International Union of Journeymen Allied Trades?" The choices on the ballot will be "Yes" or "No".

**8. NOTICE OF ELECTION.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day the ballots are mailed to employees. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

**9. NOTICE OF ELECTION ONSITE REPRESENTATIVE.** The following individual will serve as the Employer's designated Notice of Election onsite representative: (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C) 5 Bryant Park, 31<sup>st</sup> Floor, New York, NY 10018,  
(b) (6), (b) (7)(C)@ae-re.com, (b) (6), (b) (7)(C)

**10. ACCOMMODATIONS REQUIRED.** All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

**11. OBSERVERS.** Each party may designate an observer or observers to participate in the count, including challenging the eligibility of voters.

**12. TALLY OF BALLOTS.** Upon conclusion of the election, the ballots will be counted on a date, time and location to be determined by the Regional Director in consultation with the parties, at which a tally of ballots will be prepared and immediately made available to the parties.

Initials: \_\_\_\_\_

(b) (6), (b) (7)(C)

**13. POSTELECTION AND RUNOFF PROCEDURES.** All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

**A&E Properties I MGMT LLC**

(Employer)

By:

(b) (6), (b) (7)(C)

(Signature)

11/10/22  
(Date)

Print Name:

(b) (6), (b) (7)(C)

**Local 2, Building Service Employees &  
Factory Workers, United Service  
Workers Union, International Union of  
Journeyman Allied Trades**

(Petitioner)

By:

(b) (6), (b) (7)(C)

11/8/22  
(Date)

Print Name:

**Recommended:**

MARCIA ADAMS, Field Attorney (Date)

**Date approved:**

**Regional Director, Region 29  
National Labor Relations Board**

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**STIPULATED ELECTION AGREEMENT**

**General Electric International, Inc.**

**Case 03-RC-305283**

The parties **AGREE AS FOLLOWS:**

**1. PROCEDURAL MATTERS.** The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

**2. COMMERCE.** The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, General Electric International, Inc., a Delaware corporation with an office and place of business located at 1 River Road, Schenectady, New York, is engaged in, among other things, the business of servicing, repairing, and maintaining wind turbines. During the past 12 months, a representative period, the Employer has derived gross revenues in excess of \$1,000,000 in the course and conduct of its business operations and has purchased and received goods valued in excess of \$5,000 directly from points located outside the State of New York.

**3. LABOR ORGANIZATION.** Utility Workers Union of America, AFL-CIO is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

**4. ELECTION.** A secret-ballot election under the Board's Rules and Regulations shall be held under the supervision of the Regional Director on the date and at the hours and places specified below.

**DATE:** Wednesday, January 11, 2023    **HOURS:** 7:00 a.m. to 8:30 a.m. AND  
4:30 p.m. to 6:00 p.m.

**PLACE:** A Conference Room at the Dallas Hilton Lincoln Centre  
5410 LBJ Freeway  
Dallas, TX 75240

\*The name of the conference room will be reflected on the Notice of Election

If the election is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

The election in this matter will be conducted in-person as long as doing so will not jeopardize public health. If public health considerations due to COVID-19 preclude an in-person election, the Regional Director, at his or her discretion, may schedule a mail ballot election.

Initials: \_\_\_\_\_

**5. UNIT AND ELIGIBLE VOTERS.** The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

**INCLUDED:** All full-time and regular part-time Major Component Exchange ("MCE") Technicians employed by the Employer: Tech I – MCE; Tech II – MCE; Tech III – MCE; Technician – MCE; Technician I – MCE; Technician II – MCE; Technician III – MCE; Technician – Liftra; Technician II – Liftra; Technician III – Liftra; and Technician – UFS.

**EXCLUDED:** office clerical employees, managerial employees, guards, professional employees and supervisors as defined in the Act, and all other employees not in Tech positions in the MCE, Liftra, and UFS groups.

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending November 4, 2022**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the above unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls or by mail as described above in paragraph 4.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, and, in a mail ballot election, before they mail in their ballots to the Board's designated office, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

**Others permitted to vote:** The parties have agreed that Engineering Technicians in the MCE, Liftra, and UFS groups may vote in the election, but their ballots will be challenged since their eligibility has not been resolved. No decision has been made regarding whether the individuals in these classifications or groups are included in, or excluded from, the bargaining unit. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

**6. VOTER LIST.** Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the

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Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

**7. THE BALLOT.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by Utility Workers Union of America, AFL-CIO?" The choices on the ballot will be "Yes" or "No".

**8. NOTICE OF ELECTION.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day the ballots are mailed to employees. The Employer must also distribute the Notice of Election electronically if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

**9. NOTICE OF ELECTION ONSITE REPRESENTATIVE.** The following individual will serve as the Employer's designated Notice of Election onsite representative:

(b) (6), (b) (7)(C)

Email: (b) (6), (b) (7)(C)@ge.com

Cell phone: (b) (6), (b) (7)(C)

**10. ACCOMMODATIONS REQUIRED.** All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

**11. OBSERVERS.** Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling place to assist in the election, to challenge the eligibility of voters, and to verify the tally.

**12. TALLY OF BALLOTS.** Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

**13. POSTELECTION AND RUNOFF PROCEDURES.** All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

**14. OTHER STIPULATIONS.**

- a) An inspection of the polling area will be conducted by video conference and/or in-person at least 24 hours prior to the election so that the Board Agent and parties can view the polling area.
- b) The Employer will provide separate tables and chairs that will be placed at least 6 (six) feet apart in the voting area. The tables and chairs will be: one table with two chairs for the observers, one table with one chair for the Board Agent, one table for the ballot box, and one table for writing utensils, masks, and sanitizers;

Initials: \_\_\_\_\_

- c) The Employer will ensure that the voting area has sufficient room for voters to maintain 6 feet of space between other people when entering and exiting the voting area (the Board Agent will direct the flow of traffic to allow for proper social distancing);
- d) The Employer will place markings on the ground throughout the voting area, and in the immediate vicinity outside of the voting area, to ensure proper social distancing of at least 6 (six) feet apart for voters and to ensure that the voting line does not exceed 10 voters at a time;
- e) The Employer will provide hand sanitizers for the voting area;
- f) The Employer will provide a sufficient number of single use pencils for voters to use to cast their ballots;
- g) The Employer will provide masks for all voters;
- h) All attendees at each stage of the election process shall wear masks in the voting area during the entirety of the election process. In accordance with the "Voting Place Notice", Form NLRB-5017, the Board Agents have the discretion to advise a voter who is not properly masked to leave the voting area and return when properly masked;
- i) The Board Agent has the discretion to limit attendance at the counting of the ballots to the number of people who can maintain 6 feet of space between one another;
- j) All parties attending the ballot count shall wear masks;
- k) The Employer will complete and submit COVID-19 Certification Forms A and B to Region 16 within the time frame set forth on the forms;
- l) The Petitioner will complete and submit COVID-19 Certification Form B to Region 16 within the time frame set forth on the form.

**General Electric International, Inc.**

(Employer)

**By:**

/s/ Mark L. Stolzenburg

11/10/22

(Signature)

(Date)

Mark L. Stolzenburg,

**Print Name:**

Attorney

**Utility Workers Union of America, AFL-CIO**

(Petitioner)

**By:**

/s/ David R. Radtke 11/10/22

(Signature)

(Date)

**Print Name:**

David R. Radtke, Attorney



**Recommended:**    /s/ Neale K. Sutcliff 11/14/22  
Neale K. Sutcliff, Supervisory Field  
Examiner (Date)

**Date approved:**    11/14/22

/s/ Linda M. Leslie  
\_\_\_\_\_  
**Regional Director, Region 03**  
**National Labor Relations Board**

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**STIPULATED ELECTION AGREEMENT**

**Utica Zoological Society, Inc.**

**Case 03-RC-303261**

The parties **AGREE AS FOLLOWS:**

**1. PROCEDURAL MATTERS.** The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

**2. COMMERCE.** The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, Utica Zoological Society, Inc., a New York State not-for-profit corporation with its principal offices located at 1 Utica Zoo Way, Utica, NY 13501, the sole facility involved, is a Zoo open to the public for visitation and provides in-person programs. In the past 12 months, a representative period, the Employer purchased and received goods valued in excess of \$50,000, which goods were shipped directly to the Employer's Utica, New York facility from points outside the State of New York.

**3. LABOR ORGANIZATION.** Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

**4. ELECTION.** A secret-ballot election under the Board's Rules and Regulations shall be held under the supervision of the Regional Director on the date and at the hours and places specified below.

**DATE:** October 20, 2022                      **HOURS:** 7:30 AM – 12:00 PM &  
1:00 PM – 5:00 PM

**PLACE:** John S. Dyson New York Energy Zone, 35 Utica Zoo Way, Utica, NY  
13501

The election in this matter will be conducted in person as long as doing so will not jeopardize public health. If public health considerations due to COVID-19 preclude an in-person election, the Regional Director may reschedule this in-person election as a mail ballot election.

If the election is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

**5. UNIT AND ELIGIBLE VOTERS.** The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

**Included:** All full-time, regular part-time, and seasonal Zoo Keeper I, Zoo Keeper II, Zoo Keeper III, Vet Techs, Education Specialists, Educators Levels 1, Educators Level 2, Educators Level 3, Education & Ambassador Animal Specialists, Building

Initials: \_\_\_\_\_

& Grounds, Environmental Tech 1, Environmental Tech 2, Environmental Tech 3, Maintenance Tech 1, Maintenance Tech 2, Maintenance Tech 3, Administrative Assistant 1, Administrative Assistant 2, Admin. Assts. of Visitor Experience, Events and IT, Gift Shop/Visitor Experience, Gift Shop Associates, and Asst. Vet. Techs. by the Employer at 1 Utica Zoo Way, Utica, NY 13501.

**Excluded:** Animal Projects Managers, Educator 4 (Lead Educator), Superintendent of Building & Grounds, Administrative Assistant Specialist, guards, supervisors as defined in the Act, and all other employees.

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending September 14, 2022**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the above unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls or by mail as described above in paragraph 4.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, and, in a mail ballot election, before they mail in their ballots to the Board's designated office, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

**Others permitted to vote:** The parties have agreed that Vet Tech Registrars and Zoo Keeper IVs (Lead Keepers) may vote in the election but their ballots will be challenged since their eligibility has not been resolved. No decision has been made regarding whether the individuals in these classifications are included in, or excluded from, the bargaining unit. The eligibility and the inclusion or exclusion of these individuals will be resolved, if necessary, following the election.

**6. VOTER LIST.** Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

Initials: \_\_\_\_\_

**7. THE BALLOT.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO?" The choices on the ballot will be "Yes" or "No".

**8. NOTICE OF ELECTION.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day the ballots are mailed to employees. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

**9. NOTICE OF ELECTION ONSITE REPRESENTATIVE.** The following individual will serve as the Employer's designated Notice of Election onsite representative: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) @uticazoo.org, 1 Utica Zoo Way, Utica, NY 13501. Office - 315-738-0472 ext. (b) (6). Cell (b) (6), (b) (7)(C).

**10. ACCOMMODATIONS REQUIRED.** All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

**11. OBSERVERS.** Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally. Each party may designate an observer or observers to participate in the count, including challenging the eligibility of voters.

**12. TALLY OF BALLOTS.** Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

**13. POSTELECTION AND RUNOFF PROCEDURES.** All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

**14. OTHER STIPULATIONS.** Given the COVID-19 pandemic, in order to protect the voters, observers, Board agent(s), and others during the election and ballot count:

1. In the voting area, the Employer will provide five separate tables and four chairs that will be placed at least 6 feet apart. The tables will be: one for the Employer's Election Observer, one for the Petitioner's Election Observer, one for the Board Agent, and one for the ballots/ballot box/writing utensils; the additional table will be for the voting booth. In the event the space of the room will not allow for five separate tables; the Employer will set the room up to ensure that six feet of space between the voters, the Board Agent, and the Election Observers can be maintained at all times;
2. Employer will place markings on the ground throughout the voting areas, and in the immediate vicinity outside of those areas, to ensure proper social distancing for voters and to ensure that the voting lines do not exceed 10 voters at a time;
3. Employer will ensure that the voting areas have sufficient room for voters to maintain 6 feet of space between one another when entering and exiting the

Initials: \_\_\_\_\_

voting areas (the Board Agent will direct the flow of traffic to allow only one voter in the room at a time);

4. Employer will provide a spread of approximately 8 individual, disposable pencils;
5. Employer will provide hand sanitizers and an abundant number of sanitizing wipes for each voting area. The Board Agent will sanitize the voting booth after each voter casts a ballot;
6. Employer will provide masks and gloves for the parties' representatives and Election Observers;
7. The Board Agent, voters, and Election Observers shall wear masks in the voting area during the entirety of the election process. In accordance with the "Voting Place Notice", Form NLRB-5017, the Board Agent has the discretion to advise a voter who is not properly masked to leave the voting area and return when properly masked;
8. The Board Agent has the discretion to limit attendance at the counting of the ballots to the number of people who can maintain 6 feet of space between one another;
9. All parties attending the ballot count shall wear masks;
10. Parties will notify the Regional Director if any participant in the election, including all representatives, observers, and eligible voters, test positive for COVID-19 or if they have been directly exposed to individuals who have tested positive for COVID-19 during the 14 days immediately preceding the election date.

**Utica Zoological Society, Inc.**

(Employer)

**By:** /s/ (b) (6), (b) (7)(C) 9/30/2022  
(Signature) (Date)

**Print Name:** (b) (6), (b) (7)(C)

**Civil Service Employees Association , Inc.,  
Local 1000, AFSCME, AFL-CIO**

(Petitioner)

**By:** /s/Aaron E. Kaplan 9/29/2022  
(Signature) (Date)

**Print Name:** Aaron E. Kaplan

**Recommended:** /s/Jerry T. Tidd 9/30/2022  
Jerry T. Tidd, Field Examiner (Date)

**Date approved:** 9/30/2022

/s/ Linda M. Leslie

**Regional Director, Region 03  
National Labor Relations Board**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 3**

**THE WHITACRE ENGINEERING CO. D/B/A  
WHITACRE REBAR**

**Employer**

**and**

**Case 03-RD-304972**

**JOSHUA M. STAFFORD**

**Petitioner**

**and**

**SHOPMEN'S LOCAL UNION NO. 824 OF THE  
INTERNATIONAL ASSOCIATION OF BRIDGE,  
STRUCTURAL, ORNAMENTAL AND  
REINFORCING IRON WORKERS, AFL-CIO**

**Union**

**DECISION AND DIRECTION OF ELECTION**

On October 12, 2022,<sup>1</sup> Petitioner filed a petition seeking an election for certain of the Employer's employees to determine whether they wish to continue to be represented for the purposes of collective bargaining by the Union. The Employer properly submitted a Statement of Position and Petitioner and the Union submitted Responsive Statements of Position. As set forth below, no issue exists that would preclude the conduct of an election. Because the unit sought by Petitioner is appropriate for collective bargaining and a question of representation exists under Section 9(c) of the Act, I am directing an election in this matter in the unit sought by Petitioner.

On November 2, a hearing officer for the Board conducted a hearing by videoconference during which the parties were invited to present their positions and supporting evidence. Thereafter, the Union and the Employer submitted post-hearing briefs. I have duly considered all testimony, evidence, and arguments in reaching the conclusions herein. The Board has delegated its authority in this proceeding to me under Section 3(b) of the Act. Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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<sup>1</sup> All dates are 2022.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>2</sup>
3. The Union is a labor organization within the meaning of Section 2(5) of the Act.
4. There is no contract or other bar in existence that would preclude the processing of the petition.
5. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

At the hearing, the parties stipulated, among other things, to the description of the bargaining unit currently represented by the Union. Because the stipulated unit is coextensive with the existing bargaining unit and consistent with Rule Section 102.66(d) of the Board's Rules and Regulations, I direct an election in the following unit of employees:

All production and maintenance employees engaged in the fabrication of iron, steel, metal and other products, or in maintenance work in or about the Employer's plant or plants located at Liverpool, New York and vicinity; but excluding office clerical employees, draftsmen, engineering employees, watchmen, guards, and professional employees and supervisors as defined in the Act, and employees engaged in erection, installation, or construction work.

The sole dispute in this matter is whether the petition should be dismissed because of the Union's outstanding unfair labor practice charge in Case 03-CA-300378 – a case in which I have not yet made a determination. Based on the record and consistent with Board law, I find that the Union has failed to establish the petition should be dismissed based on the unfair labor practice. Therefore, I am directing an election in this matter.

## **I. Positions of the Parties**

The Union argues that the petition should be dismissed based on the Board's decision in *Reith-Riley Construction Co., Inc.*, 371 NLRB No. 109 (June 15, 2022). In that matter, the Board affirmed that Regional Directors continue to have the authority to engage in what the Board described as a "merit-determination dismissal" by dismissing a petition, subject to reinstatement, because of a merit determination with respect to certain types of unfair labor practice charges that would irrevocably taint the petition and any related election.

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<sup>2</sup> The Employer is an Ohio corporation with its principal offices located at 4645 Rebar Avenue, NE, Canton, Ohio and a facility located at 4522 Wetzel Road, Liverpool, New York, the only facility involved, where it is engaged in the business of fabrication and installation of rebar. During the past 12 months, a representative period, the Employer sold and shipped, or caused to be shipped, goods valued in excess of \$50,000, which goods were shipped from the Employer's Liverpool, New York facility directly to points located outside the State of New York.



The Union filed a charge in Case 03-CA-300378 on July 29 and amended the charge on October 14. The amended charge alleges that the Employer violated Sections 8(a)(1) and (5) of the Act by variously “refusing to meet for bargaining sessions in person, canceling agreed-upon bargaining dates, attempting to declare impasse and/or to coerce the Union into declaring impasse prematurely, making regressive proposals, insisting the Union agree to proposals which are illegal, failing to comply with information requests, insisting on bargaining on permissive subjects over the Union’s - objections, among other conduct.” The Union acknowledges that there is no merit determination to date, but it argues that the Region is able to find merit to the charge before any directed election and that the election should be administratively dismissed subject to reinstatement pending resolution of the unfair labor practice. Finally, the Union acknowledges that there is no contract bar or other bar to an election in this matter and that it has not requested that the instant petition be blocked pursuant to Section 103.20 of the Rules and Regulations.

The Employer argues that *Reith-Reilly Construction Co., Inc.* is inapplicable to the processing of this petition where there is no merit finding on the related charge noting that the mere pendency of a charge by itself is not sufficient to allow for a merit determination dismissal of the petition. Additionally, the Employer disagrees that the types of allegations at issue in the charge are of the type that could permit an administrative dismissal of the petition asserting that they are not the type of “hallmark” violations that would cause employee disaffection.

Petitioner did not submit a post-hearing brief. Petitioner stated at the hearing that the petition should continue to be processed.

## **II. Analysis and Decision**

In *Rieth Riley Construction Co., Inc.*, the Board reaffirmed that it “generally will dismiss a representation petition, subject to reinstatement, where there is a concurrent unfair labor practice complaint alleging conduct that, if proven, . . . would interfere with employee free choice in an election, and . . . is inherently inconsistent with the petition itself. The Board considers conduct that taints the showing of interest, precludes a question concerning representation, or taints an incumbent union’s subsequent loss of majority support to be inconsistent with the petition.”<sup>3</sup> The Board made clear that dismissals based on merit-determinations are not based on the pendency of an unfair labor practice but “hinge on a determination by a Regional Director that an unfair labor practice charge has merit.”<sup>4</sup> The investigation into the related unfair labor practice is ongoing and I have not decided the merits. Therefore, a merit-determination dismissal option is not appropriate. Based on this finding, I further find that I need not decide at this time whether or not the charge allegations if proven would be of the type that would preclude a question concerning

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<sup>3</sup> See variously *Overnite Transportation Co.*, 333 NLRB 1392, 1392–1393 (2001). *Linwood Care Center*, 365 NLRB No. 8 (2017); *Priority One Services*, 331 NLRB 1527 (2000); *Brannan Sand & Gravel*, 308 NLRB 922 (1992); *Big Three Industries, Inc.*, 201 NLRB 197 (1973). Additionally, once such charges are proven, such petitions are certainly to be dismissed. See also *Wendt Corporation*, Case 03–RD–276476, 2021 WL 2657453 (June 25, 2021) (not reported in Board volumes) and generally NLRB Casehandling Manual (Part Two) Representation Proceedings at Section 11733.1.

<sup>4</sup> *Rieth-Riley Construction Co., Inc.*, 371 NLRB at 3.

representation. The Union has failed to demonstrate that the petition should be administratively dismissed subject to reinstatement. I conclude that a question concerning representation exists and that an election will be conducted in the unit set forth above.

### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote on whether they wish to be represented for purposes of collective bargaining by **Shopmen's Local Union No. 824 of the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, AFL-CIO.**

#### **A. Election Details**

The election will be held on **Monday, December 5, 2022** from 10:00 a.m. to 12:00 p.m. in the shop area at the Employer's facility located at 4522 Wetzel Road, Liverpool, New York.

#### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending **Saturday, November 12, 2022**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

#### **C. Voter List**

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **November 21, 2022**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

#### **D. Posting of Notice of Election**

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election forthcoming in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of the notice if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

### **RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: **November 17, 2022**

/s/Linda M. Leslie

LINDA M. LESLIE  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 03  
130 S Elmwood Ave Ste 630  
Buffalo, NY 14202-2465

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**STIPULATED ELECTION AGREEMENT**

**Deed, LLC d/b/a Oddly Enough**

**Case 29-RC-304893**

The parties **AGREE AS FOLLOWS:**

**1. PROCEDURAL MATTERS.** The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

**2. COMMERCE.** The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, Deed, LLC d/b/a Oddly Enough, a limited liability company, with its principal location and place of business located 397 Tompkins Avenue, Brooklyn, NY, 11216, is engaged in retail operation of food and beverage. During the past twelve months, the Employer derived gross revenues in excess of \$500,000 and purchased and received goods valued in excess of \$5,000 directly from points located outside the State of New York.

**3. LABOR ORGANIZATION.** The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

**4. ELECTION.** A secret-ballot election under the Board's Rules and Regulations shall be held under the supervision of the Regional Director on the date and at the hours and places specified below.

**DATE: Tuesday, November 15, 2022**

**HOURS: 2:00 p.m. to 3:00  
p.m.**

**PLACE: In the bar area of the Employer's restaurant located at 397  
Tompkins Avenue, Brooklyn, NY 11216.**

In addition, the election will be conducted consistent with the following safety protocols:

(i) Provide a spacious polling area, sufficient to accommodate six (6) foot distancing, which will be marked on the floor with tape to insure separation for observers, Board Agents and voters;

(ii) Have separate tables spaced six (6) feet apart so Board Agent, observers, ballot booth and ballot box are at least six (6) feet apart;

(iii) Place markings on the floor to remind/enforce social distancing;

(iv) Provide sufficient disposable pencils without erasers for each voter to mark their ballot;

(v) Provide tape to seal challenge ballot envelopes;

Initials

(b) (6), (b) (7)(C)

(vi) Provide plexiglass barriers of sufficient size to protect the observers and Board Agent and to separate observers and the Board Agent from voters and each other, pre-election conference and ballot count attendees, as well as masks, hand sanitizer, gloves and wipes for observers.

(vii) Allow for an inspection of the polling area by video conference or in person, on **November 14, 2022, at 2:00 p.m.**, or at least 24 hours prior to the election, so that the Board Agent and parties can view the polling area. A representative of the Union can be present during the walkthrough;

(viii) Ensure that, in accordance with CDC guidance, all voters, observers, party representatives, and other participants will wear CDC conforming masks in all phases of the election. The Employer will post signs in or immediately adjacent to the Notice of Election to notify voters, observers, party representatives and other participants of this requirement;

(ix) Provide the Region with required certification pre and post-vote regarding positive COVID-19 tests, if any.

(x) Prior to the date of the manual ballot election, the Regional Director may reassess the COVID-19 [CDC community levels](#) in King's County, NY. The Regional Director may, in accordance with guidance set forth in *Apsirus Keweenaw*, 370 NLRB No. 45 (2020), [as modified by Starbucks 371 NLRB No. 154 \(2022\)](#) determine that the scheduled, manual ballot election cannot be safely conducted and the Regional Director may cancel, postpone, or order a mail ballot election. If the election is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, place of the election, or method of the election.

**5. UNIT AND ELIGIBLE VOTERS.** The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All Servers, Bartenders, and Chef/Kitchen employees employed by the Employer located at 397 Tompkins Ave, Brooklyn, NY 11216.

Excluded: All other employees and supervisors as defined by the Act.

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending October, 30, 2022**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the above unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, and, in a mail ballot election, before they mail in their ballots to the Board's designated office, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or

Initial

(b) (6), (b) (7)(C)

reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

**6. VOTER LIST.** Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

**7. THE BALLOT.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by Brotherhood of Oddly Enough Workers?" The choices on the ballot will be "Yes" or "No".

**8. NOTICE OF ELECTION.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

**9. NOTICE OF ELECTION ONSITE REPRESENTATIVE.** The following individual will serve as the Employer's designated Notice of Election onsite representative: Jeffrey Douglas (516) 375-6136.

**10. ACCOMMODATIONS REQUIRED.** All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

**11. OBSERVERS.** Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

**12. TALLY OF BALLOTS.** Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

(b) (6), (b) (7)(C)

Initials



**13. POSTELECTION AND RUNOFF PROCEDURES.** All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

**Deed, LLC d/b/a Oddly Enough**

(Employer)

**By:**

(Signature)

(Date)

**Print Name:**

**Brotherhood of Oddly Enough Workers**

(Petitioner)

**By:**

(b) (6), (b) (7)(C)

(Date)

**Print Name:**

(b) (6), (b) (7)(C)

(Union)

**By:**

(Signature)

(Date)

**Print Name:**

**Recommended:**

*Kareema Alston 10/31/22*

KAREEMA ALSTON, Field Examiner

(Date)

**Date approved:**

11/1/22

*Teresa Poor*

**Regional Director, Region 29**

**National Labor Relations Board**



United States of America  
National Labor Relations Board  
**NOTICE OF ELECTION**



**PURPOSE OF ELECTION:** This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

**SECRET BALLOT:** The election will be by SECRET ballot under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the polling place. Violations of these rules should be reported immediately to an NLRB agent. Your attention is called to Section 12 of the National Labor Relations Act which provides: ANY PERSON WHO SHALL WILLFULLY RESIST, PREVENT, IMPEDE, OR INTERFERE WITH ANY MEMBER OF THE BOARD OR ANY OF ITS AGENTS OR AGENCIES IN THE PERFORMANCE OF DUTIES PURSUANT TO THIS ACT SHALL BE PUNISHED BY A FINE OF NOT MORE THAN \$5,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

**ELIGIBILITY RULES:** Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off, and also include employees in the military service of the United States who appear in person at the polls. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are *not* eligible to vote.

**SPECIAL ASSISTANCE:** Any employee or other participant in this election who has a handicap or needs special assistance such as a sign language interpreter to participate in this election should notify an NLRB Office as soon as possible and request the necessary assistance.

**PROCESS OF VOTING:** Upon arrival at the voting place, voters should proceed to the Board agent and identify themselves by stating their name. The Board agent will hand a ballot to each eligible voter. Voters will enter the voting booth and mark their ballot in secret. **DO NOT SIGN YOUR BALLOT.** Fold the ballot before leaving the voting booth, then personally deposit it in a ballot box under the supervision of the Board agent and leave the polling area.

**CHALLENGE OF VOTERS:** If your eligibility to vote is challenged, you will be allowed to vote a challenged ballot. Although you may believe you are eligible to vote, the polling area is not the place to resolve the issue. Give the Board agent your name and any other information you are asked to provide. After you receive a ballot, go to the voting booth, mark your ballot and fold it so as to keep the mark secret. **DO NOT SIGN YOUR BALLOT.** Return to the Board agent who will ask you to place your ballot in a challenge envelope, seal the envelope, place it in the ballot box, and leave the polling area. Your eligibility will be resolved later, if necessary.

**AUTHORIZED OBSERVERS:** Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the voting place and at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.



United States of America  
National Labor Relations Board  
**NOTICE OF ELECTION**



**VOTING UNIT**

**EMPLOYEES ELIGIBLE TO VOTE:**

Included: All Servers, Bartenders, and Chef/Kitchen employees employed by the Employer located at 397 Tompkins Ave, Brooklyn, NY 11216, who were employed by the Employer during the payroll period ending October 30, 2022.

**EMPLOYEES NOT ELIGIBLE TO VOTE:**

Excluded: All other employees and supervisors as defined by the Act.

**DATE, TIME AND PLACE OF ELECTION**

Tuesday, November 15, 2022	2:00 p.m. to 3:00 p.m.	In the Bar area of the Employer's restaurant located at 397 Tompkins Avenue, Brooklyn, NY 11216
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EMPLOYEES ARE FREE TO VOTE AT ANY TIME THE POLLS ARE OPEN.

	<p><b>UNITED STATES OF AMERICA</b> <b>National Labor Relations Board</b> 29-RC-304893 <b>OFFICIAL SECRET BALLOT</b></p> <p>For certain employees of <b>DEED, LLC D/B/A ODDLY ENOUGH</b></p> <p>Do you wish to be represented for purposes of collective bargaining by <b>BROTHERHOOD OF ODDLY ENOUGH WORKERS?</b></p> <p><b>MARK AN "X" IN THE SQUARE OF YOUR CHOICE</b></p> <table><tr><td><b>YES</b></td><td><b>NO</b></td></tr><tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr></table> <p><b>DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY. MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY.</b> If you make markings inside, or anywhere around, more than one square, return your ballot to the Board Agent and ask for a new ballot. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.</p> <p>The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.</p>	<b>YES</b>	<b>NO</b>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>YES</b>	<b>NO</b>					
<input type="checkbox"/>	<input type="checkbox"/>					



United States of America  
National Labor Relations Board  
**NOTICE OF ELECTION**



**RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:**

- Form, join, or assist a union
- Choose representatives to bargain with your employer on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities
- In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

**It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.**

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

**The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:**

- Threatening loss of jobs or benefits by an Employer or a Union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or the mail ballots are dispatched in a mail ballot election
- Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a Union or an Employer to influence their votes

**The National Labor Relations Board protects your right to a free choice.**

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact Kareema Alston at (718)765-6180 or email [Kareema.alston@nrlrb.gov](mailto:Kareema.alston@nrlrb.gov) for assistance.

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**INSTRUCTIONS TO ELECTION OBSERVERS**

The role of observers in an NLRB election is an important one. You are here to see that the election is conducted in a fair and impartial manner, so that each eligible voter has a fair and equal opportunity to express him or herself freely and in secret. As official representatives of the parties in this election, you should undertake your role with a fair and open mind. Conduct yourself so that no one can find fault with your actions during the election. The NLRB appreciates your assistance in this democratic process.

**PRINCIPAL FUNCTIONS**

- Monitor the election process.
- Help identify voters.
- Challenge voters and ballots.
- Assist Board Agent in the conduct of election.

**DUTIES**

- BE ON TIME: Observers should report one-half hour before the polls open.
- Identify voters.
- Check off the name of the person seeking to vote. One check before the voter's name is made by one party's observer. One check after the name is made by the other party's observer.
- See that only one voter occupies a booth at any one time.
- See that each voter deposits the ballot in the ballot box.
- See that each voter leaves the voting area immediately after depositing the ballot.
- Report any conflict regarding an individual's right to vote to the Board Agent at your table before the individual votes.
- Challenge of Voters: An observer has the right to challenge a voter for cause. A Board Agent may also question the eligibility of a voter. Any challenge must be made before the voter's ballot has been placed in the ballot box.
- Report any unusual activity to the Board Agent as soon as you notice it.
- Wear your observer badge at all times during the election.
- Remain in the voting place until all ballots are counted in order to check on the fairness of the count. If the ballots are not counted immediately after the polls close, you will be informed as to when and where the ballots will be counted.

**DO NOT**

- Keep any list of individuals who have or have not voted.
- Talk to any voter waiting in line to vote, except as instructed by the Board Agent. (Greeting voters as they approach to vote is acceptable.)
- Give any help to any voter. Only a Board Agent can assist the voter.
- Electioneer at any place during the hours of the election.
- Discuss or argue about the election.
- Leave the election area without the Board Agent's permission.
- Use any electronic device including cell phones, laptop computers, personal digital assistants (PDAs), mobile e-mail devices, wired or wireless data transmission and recording devices, etc. (Please turn off or disable these devices before entering the polling area).





**United States of America**  
**National Labor Relations Board**  
**NOTICE OF ELECTION**



**NOTICE TO EMPLOYEES VOTING BY U.S. MAIL**

**PURPOSE OF ELECTION:** This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. (See VOTING UNIT in this Notice of Election for description of eligible employees.) A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

**SECRET BALLOT:** The election will be by secret ballot carried out through the U.S. mail under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Employees eligible to vote will receive in the mail *Instructions to Employees Voting by United States Mail*, a ballot, a blue envelope, and a green self-addressed envelope needing no postage.

**ELIGIBILITY RULES:** Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off. In a mail ballot election, employees are eligible if they are in the VOTING UNIT during both the designated payroll period and on the date they mail in their ballots. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election, or, in a mail ballot election, before the date they mail in their ballots, are not eligible to vote.

**CHALLENGE OF VOTERS:** An agent of the Board or an authorized observer may question the eligibility of a voter. Such challenge must be made at the time the ballots are counted.

**AUTHORIZED OBSERVERS:** Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

**METHOD AND DATE OF ELECTION**

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. On November 28, 2022, ballots will be mailed to voters from the National Labor Relations Board, Region 29, Two Metro Tech Center, Suite 5100, Brooklyn, NY 11201-3838. Voters should return ballots so that they will be received in the National Labor Relations Board, Region 29 office by close of business on **Monday, December 19, 2022**. However, all ballots received in a signed envelope prior to the date of the count will be included in the count. The mail ballots will be counted at the Region 29 office at a date and time to be determined by the Regional Director in consultation with the parties. After the count, a tally of ballots will be prepared and immediately given to the parties.

Voters must sign the outside of the envelope in which the ballot is returned. **Any ballot received in an envelope that is not signed will be automatically void.**

To help avoid the untimely return of ballot, any person who has not received a ballot by **December 13, 2022**, or otherwise requires a duplicate mail ballot kit should contact Board Agent, Kareema Alston at (718) 765-6180 and/or [Kareema.alston@nlrb.gov](mailto:Kareema.alston@nlrb.gov) by no later than close of business on **December 13, 2022**, in order to arrange for another mail ballot kit to be sent to that employee. Alternatively, you can also contact the National Labor Relations Board by calling the Region 29 Office at (718)330-7713.

If the election and/or count is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.



United States of America  
National Labor Relations Board  
**NOTICE OF ELECTION**



**VOTING UNIT**

**EMPLOYEES ELIGIBLE TO VOTE:**

All Servers, Bartenders, and Chef/Kitchen employees employed by the Employer located at 397 Tompkins Ave, Brooklyn, NY 11216 who were employed by the Employer during the payroll period ending payroll period ending October 30, 2022.

**EMPLOYEES NOT ELIGIBLE TO VOTE:** All other employees and supervisors as defined by the Act.

**UNITED STATES OF AMERICA**  
**National Labor Relations Board**  
29-RC-304893  
**OFFICIAL SECRET BALLOT**

For certain employees of  
**DEED, LLC D/B/A ODDLY ENOUGH**

Do you wish to be represented for purposes of collective bargaining by  
**BROTHERHOOD OF ODDLY ENOUGH WORKERS?**

**MARK AN "X" IN THE SQUARE OF YOUR CHOICE**

<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>
--	---------------------------------------

**DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY. MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY. If you make markings inside, or anywhere around, more than one square, return your ballot to the Board Agent and ask for a new ballot. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.**

The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.





United States of America  
National Labor Relations Board  
**NOTICE OF ELECTION**



**RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:**

- Form, join, or assist a union
- Choose representatives to bargain with your employer on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities
- In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

**It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.**

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

**The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:**

- Threatening loss of jobs or benefits by an Employer or a Union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time where attendance is mandatory, within the 24-hour period before the mail ballots are dispatched
- Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a Union or an Employer to influence their votes

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Anyone with a question about the election may contact Kareema Alston at (718)765-6180 or [Kareema.alston@nrlrb.gov](mailto:Kareema.alston@nrlrb.gov) for assistance.

United States of America  
National Labor Relations Board

**Instructions to Eligible Employees Voting  
By United States Mail**



**INSTRUCTIONS**

1. MARK YOUR BALLOT IN SECRET BY PLACING AN **X** IN THE APPROPRIATE BOX. DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY.
2. IF YOU SUBMIT A BALLOT WITH MARKINGS INSIDE, OR ANYWHERE AROUND, MORE THAN ONE SQUARE, YOUR BALLOT WILL NOT BE COUNTED. YOU MAY REQUEST A NEW BALLOT BY CALLING THE REGIONAL OFFICE AT THE NUMBER BELOW.
3. IT IS IMPORTANT TO MAINTAIN THE SECRECY OF YOUR BALLOT. DO NOT SHOW YOUR BALLOT TO ANYONE AFTER YOU HAVE MARKED IT.
4. PUT YOUR BALLOT IN THE BLUE ENVELOPE AND SEAL THE ENVELOPE.
5. PUT THE BLUE ENVELOPE CONTAINING THE BALLOT INTO THE GREEN ADDRESSED RETURN ENVELOPE.
6. SIGN THE BACK OF THE GREEN RETURN ENVELOPE IN THE SPACE PROVIDED. TO BE COUNTED, THE GREEN RETURN ENVELOPE MUST BE SIGNED.
7. DO NOT PERMIT ANY PARTY – THE EMPLOYER, THE UNION(S), OR THEIR REPRESENTATIVES, OR AN EMPLOYEE-PETITIONER – TO HANDLE, COLLECT, OR MAIL YOUR BALLOT.
8. MAIL THE BALLOT IMMEDIATELY. NO POSTAGE IS NECESSARY. For further information, call Kareema Alston at:  
(718)765-6180

**TO BE COUNTED, YOUR BALLOT MUST REACH THE REGIONAL OFFICE**

**BY** December 19, 2022

# RIGHTS OF EMPLOYEES

**Under the National Labor Relations Act, employees have the right:**

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of their own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for non representational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

**It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.**

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both employers and unions to know what is expected of them when it holds an election.

If agents of either unions or employers interfere with your right to a free, fair, and honest election, the election can be set aside by the Board. Where appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

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- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes.

**The National Labor Relations Board protects your right to a free choice**

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law. The National Labor Relations Board as an agency of the United States Government does not endorse any choice in the election.



**NATIONAL LABOR RELATIONS BOARD**  
*an agency of the*  
**UNITED STATES GOVERNMENT**